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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,553	10/06/2004	Nicolai Papke	05587-00368-US	1658

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

EXAMINER

TOSCANO, ALICIA

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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03/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/506,553</p>	<p>Applicant(s) PAPKE, NICOLAI</p>	
	<p>Examiner Alicia M. Toscano</p>	<p>Art Unit 1796</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 26 February 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,7,9-11 and 15-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Firstly, the amendment to claim 7 overcomes the 112 second paragraph rejection previously set forth and the amendment is thusly entered. All other rejections stand as previously set forth.

Applicant argues Miyawaki teaches a catalyst range higher than that claimed, that Miyawaki teaches away from the claimed range and that Linder, Yabuta nor Bederke could be used to modify Miyawaki.

Examiner disagrees. The motivation set forth previously is proper and stands. Though Miyawaki teaches a range higher than Applicant is claiming, Linder teaches a range within the scope of Applicant's claims. Linder goes on to teach motivation to use as little catalyst as possible. Linder teaches that smaller amounts of catalyst can be used when the starting materials have no basic impurities when an acid catalyst is used and no acid impurities when a basic catalyst is used. Linder teaches that the catalyst should be used in the smallest amount possible to avoid coloring. The motivation to modify Miyawaki is proper and stands.

Applicant argues Natarajan discloses 81 different catalytic options. Applicant argues that they do not believe that the prior art references are combinable and that Natarajan teaches away from applicant's claimed invention because Natarajan teaches a higher catalyst weight range.

Examiner disagrees. Natarajan discloses butyl titanate. Though it is one of 81 options this is still a teaching that butyl titanate is a viable option. The rejection is proper and stands. Applicant's arguments that they do not believe the prior art is combinable is found moot since Applicant offers no further reasons or evidence. Applicant's arguments that Natarajan teaches away from the claimed invention are moot since Linder makes up for the range deficiencies of Natarajan. Linder discloses proper motivation as reiterated above. The rejection is proper and stands.

Applicant argues against the double patenting rejection stating the two inventions are claimed differently and that applicant does not believe Laughner is combinable with '887.

Examiner disagrees. Laughner teaches the functional equivalence of polyacetal resins with other thermoplastic resins (the thermoplastic resins overlap with those of '887). The motivation to use Laughner is proper and stands. Applicant's arguments that they do not believe Laughner is combinable with '887 are thusly found moot. Examiner notes that no reasons or evidence was put forth.